

PERS Prosecutors Part

Public Employees' Retirement System

Chapter 366, P.L. 2001 established a special Prosecutors Part within the Public Employees' Retirement System (PERS) effective January 7, 2002.

Eligibility

Employees eligible for coverage under the Prosecutors Part include

- any county prosecutor, first assistant county prosecutor or assistant county prosecutor;
- the Director of the Division of Criminal Justice (DCJ) in the Department of Law and Public Safety (LPS); any assistant director, deputy director, assistant attorney general or deputy attorney general employed by that department and assigned to that division;
- any criminal investigator in the Division of Criminal Justice ineligible for enrollment in the Police and Firemen's Retirement System; and
- other employees of LPS who are not assigned to the DCJ who meet one of the following criteria:
 - (1) The employee is assigned to a unit that has a specific delegation of authority under the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq. and the employee performs law enforcement functions on behalf of the Attorney General as an Assistant Attorney General, Deputy Attorney General, or investigator.
 - (2) The employee is detached from his/her assignment in the Division of Criminal Justice to another division or office within the Department of Law and Public Safety and performs law enforcement functions on behalf of the Attorney General under the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq. Additionally, the employee, prior to being detached from

the Division of Criminal Justice, must have been eligible for enrollment in the Prosecutor's Part of the PERS according to P.L. 2001, Chapter 366.

These eligible positions are defined as "prosecutors" for the purposes of this law. The prosecutor must have been serving on or after the effective date of the law to be eligible for coverage under the Prosecutors Part of PERS.

Employee Contributions

Prosecutors Part members contribute 7.5% of salary as their pension contribution. The rate was effective January 7, 2002.

Covered Service

Prosecutors who were serving in a covered position on January 7, 2002, the enactment date of Chapter 366, will have all their credited PERS service as of that date considered as Prosecutors Part service. After that date, only service performed in a prosecutor position after January 7, 2002 will be included in the Prosecutors Part of the PERS.

Employees appointed to a prosecutor position after January 7, 2002 will have prosecutor service earned after their appointment date credited to the Prosecutors Part. All other service, including service as a prosecutor prior to the effective date of Chapter 366, will be considered regular PERS service with one exception discussed below.

There are no provisions in the law for transferring or upgrading regular PERS service to Prosecutors Part service for individuals who become prosecutors after January 7, 2002, again with the one exception discussed below. This restriction also applies to service rendered in a prosecutor position before the enactment of the law, unless the member was serving as a prosecutor on January 7, 2002.

Exception: Chapter 140, P.L. 2003 states that any PERS member appointed as a County Prosecutor

after January 7, 2002 by the Governor, pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, will have all credited PERS service as of the date of appointment considered as Prosecutors Part service.

Rules governing the purchase of service are covered below.

Separate Prosecutors Part and Regular PERS Accounts

If an employee has both prosecutor and non-prosecutor service, separate accounting will be made for the regular PERS service and the Prosecutors Part service. When the member retires, benefits will be calculated for Prosecutors Part and the regular PERS accounts separately in accordance with the law governing each part. However, the service can be combined and be considered all as regular PERS service if it will result in a regular PERS benefit higher than the Prosecutors Part benefit, such as a Veteran Retirement, or to qualify for a disability retirement benefit or a deferred retirement benefit. It may also be combined to qualify for post-retirement medical (PRM) benefits, subject to employer requirements for that coverage. When service is combined to qualify for a regular PERS benefit or for PRM coverage, concurrent or over-lapping service will be excluded from consideration.

Purchase of Service

Most service purchased by a prosecutor is generally considered as regular PERS service and the cost of purchase will be calculated using regular PERS purchase factors. A purchase of service credit is added to the Prosecutors Part account in the cases shown below. The cost of service purchased as Prosecutors Part service will be calculated using Prosecutors Part purchase factors.

- Service credited to the Prosecutors Part of the PERS that was subsequently withdrawn by the member;
- Service earned as a prosecutor after January 7, 2002 that was never credited to the Prosecutors Part;

- Temporary service as a prosecutor after January 7, 2002, but prior to enrollment in the Prosecutors Part; and
- Leave of absence from a Prosecutors Part covered position after January 7, 2002.

Vesting

A Prosecutors Part retirement benefit will vest (i.e., be eligible for a retirement benefit) when the prosecutor has ten years of creditable Prosecutors Part service. If the prosecutor also has regular PERS service, the right to receive a regular PERS benefit will vest when the prosecutor has ten years of regular PERS service. Prosecutors Part and regular PERS service vest separately unless all of the service will be used to qualify for a regular PERS retirement benefit. For example, the account of a member who terminates public employment with seven years of Prosecutors Part service and five non-concurrent years of regular PERS will remain active, i.e. not expire, since the member would have the 10 years needed to be eligible for a Deferred Retirement under the regular PERS by combining the service.

Prosecutors Part Retirement Types Available

The types of retirements available under the Prosecutors Part include

- Service Retirement - at age 55* with any number of years of Prosecutors Part service;
**Members in a Prosecutors Part position on January 7, 2002 are exempted from the age 55 requirement if they have 20 or more years of service.*
- Special Retirement - at any age with 25 or more years of Prosecutors Part service; and
- Deferred Retirement - at age 55 with ten or more years of Prosecutors Part service.

Calculation of Prosecutor Part Retirement Allowance

RETIREMENT TYPE	CALCULATION
Service	The highest of <ul style="list-style-type: none"> • 50% of FC if 20 or more years of service; • 2% X FAC for each year of service credit plus 1% for each year over 30; or • $1/60 \times \text{Years of service} \times \text{FAC}$
Special	65% of FC plus 1% of FC for each additional year over 25 up to 30 years.
Deferred	2% of FC for each year of service credit up to 25 years of service.
<p>FAC= Final Average Compensation, which is the average of your final three years of salary or the average of the three highest fiscal years of Prosecutors Part salary.</p> <p>FC= Final Compensation which is your last year of salary as a prosecutor.</p>	

Using Prosecutor Part Service as Regular PERS Service to Obtain a Higher Benefit

Prosecutors may use their Prosecutors Part service as regular PERS service if it would result in a higher retirement allowance. For example, a prosecutor, who is age 60 and a veteran with 20 years of Prosecutors Part service, could retire on a Veteran Retirement at 54.5% of final salary rather than with a Prosecutors Part service retirement at 50% of final salary. A prosecutor may also use Prosecutors Part service earned in New Jersey to qualify for an Ordinary Disability and all Prosecutors part service to qualify for an Accidental Disability or a Deferred retirement. The member is not entitled to a refund of Prosecutors Part employee contributions, or the difference between the regular PERS and Prosecutors Part contributions, when the Prosecutors Part serv-

ice is used as regular PERS service. See Fact Sheet # 4, *Applying for Retirement* for a description of these retirement types.

Retirement Options

The retirement options for the Prosecutors Part retirement benefits are the same as those of the regular PERS. There is no automatic survivors benefit in the Prosecutors Part of the PERS. See Fact Sheet #5, *Pension Options*.

Retirement with Separate Accounts

If a PERS member has separate Prosecutors Part and regular PERS accounts, the member must terminate all PERS covered employment to qualify for any retirement benefit. The Prosecutors Part retirements are described above. Regular PERS retirement types are described in Fact Sheet # 4, *Applying for Retirement*. Retirement allowances will be calculated for each account separately in accordance with the statutes governing each part. The member must meet all the requirements (age and service) of each account in order to receive the benefit based on that service.

Example 1: A 60 year-old member has 29 years of Prosecutors Part service and 5 years of regular PERS service when she terminates all PERS-covered employment and retires. The member will receive a Prosecutors Part Special Retirement benefit (69% of final compensation as a prosecutor). The member will also receive a regular PERS Service Retirement benefit (5/55 times the regular PERS final average compensation).

Example 2: A 55 year-old member has 22 years of Prosecutors Part service and 10 years of regular PERS service when he terminates all PERS-covered employment and retires. The member will immediately receive a Prosecutors Part Service Retirement benefit (50% of final compensation as a prosecutor). Since the member is not eligible to receive a regular PERS benefit at age 55, the member will not receive a regular PERS retirement benefit when the

Prosecutors Part retirement occurs. However, since the regular PERS account is vested, the member will collect a regular PERS Deferred Retirement (10/55 X FAS) at age 60.

If the member is not eligible for a regular PERS benefit upon retirement from the Prosecutors Part, then the contributions for that regular PERS service may be returned. The contributions for the regular PERS service will not be refunded if some or all of that service is used to qualify for a retirement allowance or post-retirement medical benefits coverage.

Example 3: A 50 year-old member has 25 years of Prosecutors Part service and 5 years of regular PERS service when he terminates all PERS-covered employment and retires. The member will immediately receive a Prosecutors Part Special Retirement benefit (65% of final compensation as a prosecutor). The member will not be eligible for a regular PERS benefit because he does not have a vested regular PERS account and is not eligible to retire before the regular PERS account will expire. Since the member does not need the regular PERS service to qualify for post-retirement medical benefits, the member will be able to withdraw from the regular PERS account and receive a refund of employee contributions.

Example 4: A 55 year-old member has 22 years of Prosecutors Part service and 5 years of regular PERS service when he terminates all PERS-covered employment and retires. The member will immediately receive a Prosecutors Part Special Retirement benefit (50% of final compensation as a prosecutor). The member will not be eligible for a regular PERS benefit because he does not have a vested regular PERS account and is not eligible to retire before the regular PERS account will expire. If the member needs the regular PERS service to qualify for post-retirement medical benefits, the member will not be able to withdraw from the regular PERS account and receive a refund of employee contributions.

Retirement Options with Prosecutors Part and Regular PERS Retirements

If the member is eligible to receive both a Prosecutors Part retirement benefit and a regular PERS retirement benefit, the retirement option and or beneficiary selection for the regular PERS benefit may be different than that selected for the Prosecutors Part retirement benefit.

Example: A 55 year-old member has 22 years of Prosecutors Part service and ten years of regular PERS service when he terminates all PERS-covered employment and retires. A different option selection and beneficiary may be named for the regular PERS benefit than is named for the Prosecutors Part benefit. For example, the member could select Option A with the spouse as the beneficiary for the Prosecutors Part benefit and Option 1 with a child as the beneficiary for the regular PERS benefit.

Return to Employment

Prosecutors who retire with a Prosecutors Part benefit are subject to the same return to employment rules as regular PERS members. If a retired Prosecutor earns more than \$15,000 in a calendar year from employment in all PERS covered position(s), then the member must cancel his/her retirement and re-enroll in the PERS. See Fact Sheet #21, *Employment After Retirement (PERS)*, for more details.

Loans

Prosecutors are eligible to take loans from the pension system in the same manner as other members. The amount that can be borrowed will be based on the total contributions the member has made to the system. The minimum repayment amount will be based on the Prosecutors Part contribution rate of 7.5% of salary.

Group Life Insurance

The Group Life Insurance (GLI) benefit for an active member in the Prosecutors Part is the same as that

for the regular PERS. There is a non-contributory policy that is 1.5 times the salary subject to pension received in the twelve months prior to death and a contributory policy also valued at 1.5 times the salary subject to pension received in the twelve months prior to death.

The GLI for a retiree collecting either a Prosecutors Part Special, Service, or Deferred Retirement benefit is 50% of the final compensation as a prosecutor. If a prosecutor eligible for a deferred retirement terminates employment and dies after age 55 without filing for retirement, the prosecutor would receive a GLI benefit as if retired. If a prosecutor eligible for a deferred retirement terminates employment and dies before age 55, no GLI benefit is payable. Retired GLI is contingent upon the retiree having had coverage as an active employee and having ten years of service credit.

If a prosecutor uses the Prosecutors Part service to qualify for a higher regular PERS benefit, the GLI payable will be that for a regular PERS retiree, i.e., 3/16ths of the final year's salary.

If a prosecutor retires with both Prosecutors Part and regular PERS retirement allowances, the member may receive GLI of 50% of the final year's salary as a prosecutor and 3/16ths of the regular PERS final year's salary. The member must have 10 years in both the Prosecutors Part and the regular PERS service to qualify for the GLI associated with each retirement.

Health Benefits in Retirement

The law establishing the Prosecutors Part of the PERS did not address the issue of post-retirement medical (PRM) coverage. Therefore, the availability of PRM coverage to a prosecutor depends upon the employer's normal policy/rules towards providing it to its employees. For the State, employees are generally eligible for State-paid PRM upon retirement if they retire on a disability retirement or with 25 years of service credited to a New Jersey public pension system. See Fact Sheet #11, *Enrolling in the State Health Benefits Program When You Retire*, for details on qualifying for PRM. For information about the 21 counties, contact the Human Resource Office at the county.

Withdrawal from the PERS

A member may not withdraw from either the Prosecutors Part or the regular PERS while still actively employed in a position covered by the other. The member may withdraw from both the Prosecutors Part and the regular PERS when all PERS covered employment is ended. The member may also withdraw from the regular PERS after retirement from the Prosecutors Part if no portion of the regular PERS service will be used to qualify for a regular PERS benefit or for post-retirement medical coverage.

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